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# Wisconsin Dairy Products Association, Inc.



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Dairy License Fee Testimony  
September 9, 1997  
WDATCP Board of Directors

-The Wisconsin Dairy Products Association (WDPA) is presenting testimony today in regards to the Department's revised proposal to increase dairy fees.

-When WDPA testified at the July DATCP Board mtg., we said that:

- \*No one likes to see fees increased.
- \*Since 85% of WI dairy products are shipped out of state, our dairy plants are competing with other plants across the country.
- \*Therefore, any increase in fees increases the cost of doing business which in turn shackles our ability to be competitive on the national market.

-However, WDPA also testified that we supported the general concept of increasing fees for the following reasons:

- \*DATCP had to raise more money from licensing fees in order for DATCP to achieve the 50/50 split between GPR (taxes) and PR (fees) as mandated by the WI Legislature in the last biennial budget.
- \*There's a state mandate that no state agency can operate under a deficit budget.
- \*Without fee increases, the Food Division would have fallen into a deficit budget during this biennium.

-However, it appears that the timing isn't right for a major fee increase at this time. Due to fiscal hardships at both the plant and farm levels, the Dept. has agreed to cut back it's proposal to increase dairy fees.

-This revised proposal, which only increases grade A milk procurement fees from 0.4 cents to 0.6 cents per hundredweight, is only a stop-gap measure to get the Dept. through this biennium. The Dept. will once again be facing another financial shortfall in the 1999-2001 biennium.

-WDPA supports this revised proposal.

-WDPA members are also working closely with the Dept. on its efficiency study. Our members, along with other association's members who serve on the advisory committee, will be reviewing and suggesting ideas to streamline operations and improve cost efficiencies.

-WDPA supports this efficiency study and will work diligently through its members on the task force.

-Only time will tell is this efficiency study will produce dramatic cost savings. Since a majority of the Dept's expenses are wrapped up in personnel (whose costs are determined by unions), and since many of the services provided by the Dept. are federally mandated, it will be interesting to see if significant cost decreases can be discovered. I have a great deal of faith that the industry members serving on this advisory committee will be extremely thorough and exhaustive in discovering possible cost

efficiencies.

-Finally, I would like to briefly comment on recent talk by others which gave the impression that the dairy industry might find relief from dairy fee increases by going to the WI Legislature.

-It would be wonderful if the Legislature increased the GPR (tax) portion of dairy fees back up to 60%. However, in this era of fiscal restraint, it appears very unlikely that this will occur.

-The Legislature is facing an extremely tight budget and any extra funds are being targeted for prisons or funding school costs through property taxes.

-Therefore, there may be a great deal of political rhetoric encouraging the Legislature to increase funding, but political realities dictate otherwise.

Thank you.

Rep MK Ott



State of Wisconsin  
Tommy G. Thompson, Governor

**Department of Agriculture, Trade and Consumer Protection**

Alan T. Tracy, Secretary

2811 Agriculture Drive  
Madison, Wisconsin 53704-6777

PO Box 8911  
Madison, WI 53708-8911

February 18, 1997

To: Board of Agriculture, Trade and Consumer Protection

From: Alan T Tracy, Secretary *[Signature]*  
Steven B. Steinhoff, Administrator *[Signature]*  
Division of Food Safety

Subject: Food and Dairy License Fees; Hearing Draft Rule

At the March 11, 1997 Board meeting, the department will ask the Board to authorize public hearings on a draft rule to modify current license fees for dairy farms, dairy plants, food processing plants, food warehouses and retail food establishments. The rule increases license fees to remedy a projected deficit in the department's food safety budget. A copy of the hearing draft rule is attached.

**Background**

Wisconsin's food safety programs are designed to safeguard public health, and ensure a safe and wholesome food supply. They also facilitate the sale of Wisconsin dairy and food products in interstate and international markets.

Wisconsin's food safety programs are funded by a combination of general tax dollars (GPR) and program revenue from industry license fees (PR). In 1991, license fees funded about 40% of program costs. The 1995-97 biennial budget act reduced GPR funding, and raised the percentage of PR funding to 50%. Program costs have also increased due to external factors, such as inflation and statewide pay increases. As a result, the department projects a deficit in its food safety budget in FY 1997-98.

The department has not raised fees since 1991. The 1991-93 biennial budget act created the current structure for food and dairy license fees. It also set the fees at the current level and authorized the department to adjust license fees by rule.

The department continues to explore ways to be more effective and efficient. The number of FTE's in the Division of Food Safety in the 1997-99 biennium will be 2.75 fewer than in 1993-94. Grade A dairy farms are scheduled for inspection based on the individual dairy farm's quality and inspection performance history. As the number of dairy farms decreases, the department is directing resources toward critical food safety needs in food and dairy processing establishments.

The department also seeks to develop operating partnerships with other agencies. Through such arrangements, there is a mutual sharing of expertise and resources, and duplication is minimized. Some examples include the following:

- The number of local governmental agencies contracting to license and inspect retail food establishments increased from 11 to 15 since 1993.
- The department entered into a pilot project with the U. S. Department of Agriculture to share routine inspection responsibility for dairy plants in the USDA grading program.
- The department has entered into several partnerships with the U.S. Food and Drug Administration in areas such as inspection of processors of ready-to-eat delicatessen foods, maple syrup, acidified foods and smoked fish.
- The department is working with the Wisconsin Department of Health and Family Services to minimize unnecessary duplication in the licensing and inspection of retail food businesses that operate both as grocery stores and restaurants.

**Rule Contents**

The rule revises current license fees for dairy farms, dairy plants, food processing plants, food warehouses and retail food establishments. This includes changes in "reinspection fees" charged when a rule violation makes it necessary for the department to reinspect a licensed facility. The fee changes are summarized in the following tables::

**Milk Producer (Dairy Farm) License Fees; Effective July 1, 1999**

Category	Current License Fee	Proposed License Fee
Milk Producer	\$20	\$25

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**Milk Producer (Dairy Farm) Reinspection Fees; Effective July 1, 1999**

Category	Current Reinspection Fee	Proposed Reinspection Fee
Milk Producer Reinspection Fee	\$20	\$25

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**Milk Producer (Dairy Farm) Reinstatement Inspection Fees; Effective July 1, 1999**

Category	Current Reinstatement Inspection Fee	Proposed Reinstatement Inspection Fee
Milk Producer Reinstatement Inspection Fee	\$40	\$50

\*\*\*\*\*

Dairy Plant License Fees; The increased license fees will apply for any new dairy plant licensed after the effective date of the rule. The new license fees for currently licensed dairy plants will be effective at the time of the first license renewal following the effective date of the rule or May 1, 1998.

Category	Current License Fee	Proposed License Fee
Basic Dairy Plant	\$80	\$100
Supplementary fee for grade A dairy plant receiving more than 2,000,000 pounds of milk from producers	\$650	\$1000
Supplementary fee for grade A dairy plant receiving 2,000,000 or less pounds of milk from producers	\$500	\$500
Supplementary fee for grade B dairy plant manufacturing more than 1,000,000 pounds of dairy products or 200,000 gallons of frozen dairy products	\$270	\$350
Supplementary fee for grade B dairy plant manufacturing more than 10,000,000 pounds of dairy products.	\$270	\$850
Supplementary fee for a grade A receiving station	\$250	\$300

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Dairy Plant Reinspection Fees; Effective on the effective date of the rule (projected to be December 1, 1997).

Category	Current Reinspection Fee	Proposed Reinspection Fee
Basic dairy plant reinspection fee	\$40	\$80
Supplementary reinspection fee for grade A dairy plant receiving more than 2,000,000 pounds of milk from producers	\$160	\$250
Supplementary reinspection fee for grade A dairy plant receiving 2,000,000 or less pounds of milk from producers	\$125	\$125
Supplementary reinspection fee for grade B dairy plant manufacturing more than 1,000,000 pounds of dairy products or 200,000 gallons of frozen dairy products	\$140	\$175
Supplementary reinspection fee for grade B dairy plant manufacturing more than 10,000,000 pounds of dairy products.	\$140	\$425
Supplementary reinspection fee for a grade A receiving station	\$60	\$75

Milk Procurement Fee; Effective on the effective date of the rule (projected to be December 1, 1997).

Category	Current Procurement Fee	Proposed Procurement Fee
Grade A	0.4 Cents per Hundredweight	0.6 Cents per Hundredweight
Grade B	0.2 Cents per Hundredweight	NO CHANGE; remains at 0.2 Cents per CWT. (hundredweight).

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Food Processing Plant License Fees; The increased license fees will apply for any new food processing plant licensed after the effective date of the rule. The new license fees for currently licensed food processing plants will be effective at the time of the first license renewal following the effective date of the rule or April 1, 1998.

Category	Current License Fee	Proposed License Fee
Annual production of \$25,000 or more but less than \$250,000 and is engaged in processing potentially hazardous food	\$120	\$250
Annual production of \$250,000 or more and is engaged in processing potentially hazardous food	\$270	\$525
Annual production of \$25,000 or more but less than \$250,000 and is not engaged in processing potentially hazardous food or in canning	\$50	\$100
Annual production of \$250,000 or more and is not engaged in processing potentially hazardous food or in canning	\$110	\$325
Annual production of less than \$25,000	\$40	\$60

↑  
 48%  
 51%  
 50%  
 34%  
 67%

Food Processing Plant Reinspection Fees; Effective on the effective date of the rule (projected to be December 1, 1997).

Category	Current Reinspection Fee	Proposed Reinspection Fee
Annual production of \$25,000 or more but less than \$250,000 and is engaged in processing potentially hazardous food	\$80	\$170
Annual production of \$250,000 or more and is engaged in processing potentially hazardous food	\$210	\$450
Annual production of \$25,000 or more but less than \$250,000 and is not engaged in processing potentially hazardous food or in canning	\$50	\$100
Annual production of \$250,000 or more and is not engaged in processing potentially hazardous food or in canning	\$110	\$325

47%  
 47%  
 50%  
 34%

\*\*\*\*\*

Retail Food Establishment License Fees; The license fee increases will become effective on the projected effective date of the rule, which is December 1, 1997. The increased fees will be prorated for the remainder of the current license year (effective date of rule to June 30, 1998) and licensees will receive a supplementary invoice for the prorated fee.

Category	Current License Fee	Proposed License Fee
Annual food sales of \$25,000 or more but less than \$1,000,000 and that processes potentially hazardous food	\$90	\$175
Annual food sales of \$1,000,000 or more and that processes potentially hazardous food	\$210	\$450
Annual food sales of \$25,000 or more an that is engaged in food processing but does not process potentially hazardous food	\$80	\$125
Annual food sales of less than \$25,000 and that is engaged in food processing	\$40	\$60
Not engaged in food processing	\$20	\$30

51%  
 47%  
 64%  
 67%  
 67%



Retail Food Establishment Reinspection Fees; The reinspection fee increases will become effective on the projected effective date of the rule, which is December 1, 1997.

Category	Current Reinspection Fee	Proposed Reinspection Fee
Annual food sales of \$25,000 or more but less than \$1,000,000 and that processes potentially hazardous food	\$60	\$125
Annual food sales of \$1,000,000 or more and that processes potentially hazardous food	\$140	\$300
Annual food sales of \$25,000 or more and that is engaged in food processing but does not process potentially hazardous food	\$80	\$125
Annual food sales of less than \$25,000 and that is engaged in food processing	\$40	\$60
Not engaged in food processing	\$50	\$60

48%  
 47%  
 64%  
 67%  
 83%

Food Warehouse License Fees; The license fee increases will become effective on the projected effective date of the rule, which is December 1, 1997. The increased fees will be prorated for the remainder of the current license year (effective date of rule to June 30, 1998) and licensees will receive a supplementary invoice for the prorated fee.

Category	Current License Fee	Proposed License Fee
Stores potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$75
Stores potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200
Does not store potentially hazardous food and has fewer than 50,000 square feet of storage area	\$25	\$50
Does not store potentially hazardous food and has 50,000 square feet or more of storage area	\$50	\$100

67%  
 50%  
 50%  
 50%

Food Warehouse Reinspection Fees; The reinspection fee increases will become effective on the projected effective date of the rule, which is December 1, 1997.

Category	Current Reinspection Fee	Proposed Reinspection Fee
Stores potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$75
Stores potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200
Does not store potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$100
Does not store potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200

67%

50%

50%

50%

**Small Business Analysis and Fiscal Estimate**

The department has prepared a small business analysis (“initial regulatory flexibility analysis”) and fiscal estimate on the proposed rule. Copies are attached.

**Next Steps**

If the board authorizes public hearings on this rule, the department will refer a copy of the rule to the Legislative Council Rules Clearinghouse and publish a hearing notice in the Wisconsin Administrative Register. The Secretary will approve the hearing notice for publication, based on the Board’s approval of the hearing draft rule. The Department will hold public hearings on the dates and at the locations specified in the hearing notice. The hearing dates and locations have not yet been determined.

Following the public hearings, the department will prepare a final draft rule for the Board’s consideration. If the Board approves a final draft rule, the department will transmit that final draft rule to the Legislature, for review by appropriate legislative committees. If the Legislature takes no action to stop the rule, the Secretary will sign the final rulemaking order and transmit it for publication. The rule will take effect upon publication in the Wisconsin Administrative Register unless the final draft rule specifies a later effective date.

The department hopes to have the rules in effect as early as possible in the fiscal year commencing July 1, 1997. The increased reinspection fees for dairy plants, food processing plants, retail food establishments and food warehouses, as well as the new dairy plant milk procurement fees will become effective on the effective date of the rule. The increased license fees will also apply to any new dairy plant or food processing plant licensed after the effective date of the rule. All currently licensed dairy plants and food processing plants will be charged

the new license fees at the time of the first license renewal after the effective date of the rule, or May 1, 1998, and April 1, 1998, respectively. The license fee increases for retail food establishments and food warehouses will become effective on the projected date of the rule, which is December 1, 1997. The license fee increases will be prorated for the remainder of the current license year (effective date of the rule to June 30, 1998) and licensees will receive a supplementary invoice for the balance due on the prorated amount. The new milk producer license fee and the reinspection and reinstatement fees for milk producers will have a delayed effective date of July 1, 1999.

ATT:SBS:kwm  
DFS/Fees;036

PROPOSED ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION  
ADOPTING, AMENDING OR REPEALING RULES

1 The state of Wisconsin department of agriculture, trade and  
2 consumer protection proposes the following order to renumber and  
3 amend ATCP 80.04 (1) (b) 4. and (3) (b) 4.; to amend ATCP 60.02 (4),  
4 60.04 (2), 70.03 (1) and (2), 71.02 (3) and (5) (b), 75.015 (2), and  
5 80.04 (1) (b) (intro.), 1., and 2., (2) (b) 1., and (3) (b) (intro.), 1.,  
6 and 2.; and to create ATCP 70.03 (2m), (2n) and (2r), 75.015 (2m)  
7 and (2n), and 80.04 (1) (b) 3. and (3) (b) 3., relating to food and  
8 dairy license fees.

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Analysis Prepared by the Department of  
Agriculture, Trade and Consumer Protection

Statutory authority: ss 93.07 (1), 97.20 (4), 97.22 (8),  
97.27 (5), 97.29 (5) and 97.30 (5), Stats.

Statutes interpreted: ss. 97.20 (2c) (b), (2g) (b), and (2n) (b);  
97.22 (2) (b) and (4) (am); 97.27 (3m),  
97.29 (3) (am) and (3) (cm); and 97.30 (3m),  
Stats.

The department of agriculture, trade and consumer protection enforces Wisconsin's food safety laws. Among other things, the department licenses and inspects food processing plants, retail food establishments, food warehouses, dairy plants and dairy farms. These programs are designed to safeguard public health, and ensure a safe and wholesome food supply. They also facilitate the sale of Wisconsin dairy and food products in interstate and international markets.

Wisconsin's food safety programs are funded by general tax dollars (GPR) and program revenue from industry license fees (PR). In 1991, license fees funded about 40% of program costs. The 1993-95

biennial budget act reduced GPR funding, and raised the percentage of PR funding to 50%. Program costs have also increased due to external factors, such as inflation and statewide pay increases. As a result, the department projects a deficit in its food safety budget in FY 1997-98.

In order to maintain current food safety inspection services, the department is proposing to increase certain food and dairy license fees. The department has not increased license fees since 1991. This rule increases license fees and reinspection fees for food processing plants, retail food establishments, food warehouses, dairy plants and dairy farms.

#### Milk Producer License and Reinspection Fees

Currently, the annual fee for a milk producer license is \$20. This rule will increase that fee to \$25 annually, effective July 1, 1999. This rule will also increase milk producer license reinspection fees from \$20 to \$25 and milk producer reinstatement inspection fees from \$40 to \$50 on July 1, 1999.

#### Dairy Plant License Fees

This rule will increase annual dairy plant license fees as follows:

- The current \$80 basic license fee will increase to \$100.
- The current \$650 supplementary fee for a grade A processing plant receiving more than 2,000,000 pounds of milk from producers will increase to \$1000.
- The current \$270 supplementary fee for a grade B processing plant manufacturing more than 1,000,000 pounds of dairy products or 200,000 gallons of frozen dairy products will increase to \$350.
- The current \$270 supplementary fee for a grade B processing plant manufacturing more than 10,000,000 pounds of dairy products will increase to \$850.
- The current \$250 supplementary fee for a grade A receiving station will increase to \$300.

### Milk Procurement Fees

Currently, dairy plants pay a monthly milk procurement fee which is intended to fund a portion of the dairy farm inspection program. This rule increases the grade A milk procurement fee from 0.4 cents per hundredweight of grade A milk received from producers to 0.6 cents per hundredweight. The milk procurement fee for grade B milk is not changed by this rule and remains at the current rate of 0.2 cents per hundredweight.

### Dairy Plant Reinspection Fees

This rule will increase dairy plant reinspection fees as follows:

- The current \$40 basic reinspection fee will increase to \$80.
- The current \$160 supplementary reinspection fee for a grade A processing plant receiving more than 2,000,000 pounds of milk from producers will increase to \$250.
- The current \$140 supplementary reinspection fee for a grade B processing plant manufacturing more than 1,000,000 pounds of dairy products or 200,000 gallons of frozen dairy products will increase to \$175.
- The current \$140 supplementary reinspection fee for a grade B processing plant manufacturing more than 10,000,000 pounds of dairy products will increase to \$425.
- The current \$60 supplementary reinspection fee for a grade A receiving station will increase to \$75.

### Food Processing Plant License Fees

This rule will increase annual food processing plant license fees as follows:

- The current annual \$120 fee for a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is engaged in processing potentially hazardous food or in canning will increase to \$250.
- The current annual \$270 fee for a food processing plant that has an annual production of at least \$250,000, and is engaged in processing potentially hazardous food or in canning, will increase to \$525.

- The current annual \$50 fee for a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is not engaged in processing potentially hazardous food or in canning, will increase to \$100.
- The current annual \$110 fee for a food processing plant with an annual production of at least \$250,000 that is not engaged in processing potentially hazardous food or in canning will increase to \$325.
- The current annual \$40 fee for a food processing plant that has an annual production of less than \$25,000 will increase to \$60.

#### Food Processing Plant Reinspection Fees

This rule will increase food processing plant reinspection fees as follows:

- The current \$80 reinspection fee for a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is engaged in processing potentially hazardous food or in canning, will increase to \$170.
- The current \$180 reinspection fee for a food processing plant that has an annual production of at least \$250,000, and is engaged in processing potentially hazardous food or in canning, will increase to \$350.
- The current \$50 reinspection fee for a food processing plant that has an annual production of at least \$25,000 but less than \$250,000, and is not engaged in processing potentially hazardous food or in canning, will increase to \$100.
- The current \$110 reinspection fee for a food processing plant with an annual production of at least \$250,000 that is not engaged in processing potentially hazardous food or in canning will increase to \$325.

#### Retail Food Establishment License Fees

This rule will increase annual retail food establishment license fees as follows:

- The current annual \$90 fee for a retail food establishment that has annual food sales of at least \$25,000 but less than

\$1,000,000, and processes potentially hazardous food, will increase to \$175.

- The current annual \$210 fee for a retail food establishment that has annual food sales of at least \$1,000,000, and processes potentially hazardous food, will increase to \$450.
- The current annual \$80 fee for a retail food establishment that has annual food sales of at least \$25,000 and is engaged in food processing, but does not process potentially hazardous food, will increase to \$125.
- The current annual \$40 fee for a retail food establishment that has annual food sales of less than \$25,000, and is engaged in food processing, will increase to \$60.
- The current annual \$20 fee for a retail food establishment not engaged in food processing will increase to \$30.

#### Retail Food Establishment Reinspection Fees

This rule will increase retail food establishment reinspection fees as follows:

- The current \$60 reinspection fee for a retail food establishment that has annual food sales of at least \$25,000 but less than \$1,000,000, and processes potentially hazardous food, will increase to \$125.
- The current \$140 reinspection fee for a retail food establishment that has annual food sales of at least \$1,000,000, and processes potentially hazardous food, will increase to \$300.
- The current \$80 reinspection fee for a retail food establishment that has annual food sales of at least \$25,000 and is engaged in food processing but does not process potentially hazardous food, will increase to \$125.
- The current \$40 reinspection fee for a retail food establishment that has annual food sales of less than \$25,000, and is engaged in food processing, will increase to \$60.



- The current \$50 reinspection fee for a retail food establishment not engaged in food processing will increase to \$60.

#### Food Warehouse License Fees

This rule will increase annual food warehouse license fees as follows:

- The current \$50 license fee for a food warehouse that stores potentially hazardous food and that has fewer than 50,000 square feet of storage area will increase to \$75.
- The current \$100 license fee for a food warehouse that stores potentially hazardous food and has at least 50,000 square feet of storage area will increase to \$200.
- The current \$25 license fee for a food warehouse that does not store potentially hazardous food and has fewer than 50,000 square feet of storage area will increase to \$50.
- The current \$50 license fee for a food warehouse that does not store potentially hazardous food and has at least 50,000 square feet of storage area will increase to \$100.

#### Food Warehouse Reinspection Fees

This rule will increase food warehouse reinspection fees as follows.

- The current \$50 reinspection fee for a food warehouse that stores potentially hazardous food and has fewer than 50,000 square feet of storage area will increase to \$75.
- The current \$100 reinspection fee for a food warehouse that stores potentially hazardous food and has at least 50,000 square feet of storage area will increase to \$200.
- The current \$50 reinspection fee for a food warehouse that does not store potentially hazardous food and has fewer than 50,000 square feet of storage area will increase to \$100.
- The current \$100 reinspection fee for a food warehouse that does not store potentially hazardous food and has at least 50,000 square feet of storage area will increase to \$200.

1 SECTION 1. ATCP 60.02(4) is amended to read:

2 ATCP 60.02(4) LICENSE FEE. (a) The annual fee for a milk  
3 producer license under this section is ~~\$20~~ 25. A dairy plant  
4 operator shall pay the annual milk producer license fee for every  
5 dairy farm from which the dairy plant receives milk at the time  
6 the fee payment is due. An applicant for an annual dairy plant  
7 license under s. 97.20 , Stats., shall submit the required  
8 producer license fees with the applicant's dairy plant license  
9 application.

10 SECTION 2. ATCP 60.04(2) is amended to read:

11 ATCP 60.04(2) FEE AMOUNT. (a) Except as provided under par.  
12 (b), the reinspection fee under sub. (1) is ~~\$20~~ 25.

13 (b) If the department has suspended a milk producer's license  
14 or grade A permit, and reinspection is required under this chapter  
15 for reinstatement of the producer's license or grade A permit, the  
16 reinspection fee is ~~\$40~~ 50.

17 SECTION 3. ATCP 70.03(1) and (2) are amended to read:

18 ATCP 70.03(1) LICENSE REQUIRED. Except as provided under  
19 sub. (7), no person may operate a food processing plant without a  
20 valid license issued by the department for that food processing  
21 plant under s. 97.29, Stats. A food processing plant license  
22 expires on March 31 annually. A license is not transferable  
23 between persons or food processing plants.

1           (2) LICENSE APPLICATION. Application for an annual food  
2 processing plant license shall be made on a form provided by the  
3 department. The application shall be accompanied by the fees  
4 required under ~~s. 97.29 (3), Stats.~~ sub. (2m) and (2n), and by the  
5 sworn statement required under s. 100.03 (2), Stats.

6           **SECTION 4.** ATCP 70.03 (2m), (2n) and (2r) are created to  
7 read:

8           ATCP 70.03 (2m) ANNUAL LICENSE FEE. An applicant for a food  
9 processing plant license shall pay an annual license fee as  
10 follows:

11           (a) For a food processing plant that has an annual  
12 production of at least \$25,000 but less than \$250,000, and is  
13 engaged in processing potentially hazardous food or in canning, an  
14 annual license fee of \$250.

15           (b) For a food processing plant that has an annual  
16 production of at least \$250,000 and is engaged in processing  
17 potentially hazardous food or in canning, an annual license fee of  
18 \$525.

19           (c) For a food processing plant that has an annual  
20 production of at least \$25,000 but less than \$250,000, and is not  
21 engaged in processing potentially hazardous food or in canning, an  
22 annual license fee of \$100.

1 (d) For a food processing plant that has an annual  
2 production of at least \$250,000, and is not engaged in processing  
3 potentially hazardous food or in canning, an annual license fee of  
4 \$325.

5 (e) For a food processing plant that has an annual  
6 production of less than \$25,000, an annual license fee of \$60.

7 (2n) CANNING OPERATIONS; LICENSE FEE SURCHARGE. If a food  
8 processing plant is engaged in canning operations, the operator  
9 shall pay an annual license fee surcharge of \$200, which shall be  
10 added to the license fee under sub. (2m).

11 (2r) REINSPECTION FEE. (a) If the department reinspects a  
12 food processing plant because the department has found a violation  
13 of ch. 97, Stats., or this chapter on a regularly scheduled  
14 inspection, the department shall charge the food processing plant  
15 operator the reinspection fee specified under par. (b). A  
16 reinspection fee is payable when the reinspection is completed,  
17 and is due upon written demand from the department. The department  
18 may issue a demand for payment when it issues a license renewal  
19 application form to a food warehouse operator.

20 (b) The reinspection fee required under par. (a) is as  
21 follows:

1           1. For a food processing plant that has an annual production  
2 of less than \$ 250,000, and is engaged in processing potentially  
3 hazardous food or in canning, the reinspection fee is \$170.

4           2. For a food processing plant that has an annual production  
5 of at least \$ 250,000, and is engaged in processing potentially  
6 hazardous food or in canning, the reinspection fee is \$350.

7           3. For a food processing plant that has an annual production  
8 of less than \$ 250,000, and is not engaged in processing  
9 potentially hazardous food or in canning, the reinspection fee is  
10 \$100.

11           4. For a food processing plant that has an annual production  
12 of \$ 250,000 or more, and is not engaged in processing potentially  
13 hazardous food or in canning, the reinspection fee is \$325.

14           **SECTION 5.** ATCP 71.02(3) and (5)(b) are amended to read:

15           ATCP 71.02(3) ANNUAL LICENSE FEE. An applicant for a food  
16 warehouse license shall pay an annual license fee as follows:

17           (a) For a food warehouse that stores potentially hazardous  
18 food, and ~~that~~ has fewer than 50,000 square feet of storage area,  
19 \$~~50~~ 75.

20           (b) For a food warehouse that stores potentially hazardous  
21 food, and ~~that~~ has at least 50,000 ~~or more~~ square feet of storage  
22 area, \$~~100~~ 200.

1 (c) For a food warehouse that does not store potentially  
2 hazardous food, and ~~that~~ has fewer than 50,000 square feet of  
3 storage area, ~~\$25~~ 50.

4 (d) For a food warehouse that does not store potentially  
5 hazardous food, and ~~that~~ has at least 50,000 ~~or more~~ square feet  
6 of storage area, ~~\$50~~ 100.

7 (5) (b) The reinspection fee required under par. (a) is as  
8 follows:

9 1. For a food warehouse that stores potentially hazardous  
10 food, and ~~that~~ has fewer than 50,000 square feet of storage area,  
11 ~~\$50~~ 75.

12 2. For a food warehouse that stores potentially hazardous  
13 food, and ~~that~~ has at least 50,000 ~~or more~~ square feet of storage  
14 area, ~~\$100~~ 200.

15 3. For a food warehouse that does not store potentially  
16 hazardous food, and ~~that~~ has fewer than 50,000 square feet of  
17 storage area, ~~\$50~~ 100.

18 4. For a food warehouse that does not store potentially  
19 hazardous food, and ~~that~~ has at least 50,000 ~~or more~~ square feet  
20 of storage area, ~~\$100~~ 200.

21 SECTION 6. ATPC 75.015(2) is amended to read:

22 ATPC 75.015(2) LICENSE APPLICATION. Application for a  
23 retail food establishment license shall be made on a form provided

1 by the department, or by the agent municipality or county, and  
2 shall be accompanied by the applicable fees under sub. (2m) or s.  
3 ~~97.30(3) or (4)~~, 97.30(4), Stats.

4 **SECTION 7.** ATCP 75.015(2m) and (2n) are created to read:

5 ATCP 75.015(2m) ANNUAL LICENSE FEE. An applicant for a  
6 retail food establishment license shall pay an annual license fee  
7 as follows:

8 (a) For a retail food establishment that has annual food  
9 sales of at least \$25,000 but less than \$1,000,000, and processes  
10 potentially hazardous food, an annual license fee of \$175.

11 (b) For a retail food establishment that has annual food  
12 sales of at least \$1,000,000 and processes potentially hazardous  
13 food, an annual license fee of \$450.

14 (c) For a retail food establishment that has annual food  
15 sales of at least \$25,000 and is engaged in food processing, but  
16 does not process potentially hazardous food, an annual license fee  
17 of \$125.

18 (d) For a retail food establishment that has annual food  
19 sales of less than \$25,000, and is engaged in food processing, but  
20 does not process potentially hazardous food, an annual license fee  
21 of \$60.

22 (e) For a retail food establishment that is not engaged in  
23 food processing, an annual license fee of \$30.

1           (2n) REINSPECTION FEE. (a) If the department reinspects a  
2 retail food establishment because the department has found a  
3 violation of ch. 97, Stats., or this chapter on a regularly  
4 scheduled inspection, the department shall charge the retail food  
5 establishment operator the reinspection fee specified under  
6 par. (b). A reinspection fee is payable when the reinspection is  
7 completed, and is due upon written demand from the department. The  
8 department may issue a demand for payment when it issues a license  
9 renewal application form to the retail food establishment  
10 operator.

11           (b) The reinspection fee required under par. (a) is as  
12 follows:

13           1. For a retail food establishment that has annual food  
14 sales of at least \$25,000 but less than \$1,000,000, and processes  
15 potentially hazardous food, the reinspection fee is  
16 \$125.

17           2. For a retail food establishment that has annual food  
18 sales of at least \$1,000,000 and processes potentially hazardous  
19 food, the reinspection fee is \$300.

20           3. For a retail food establishment that has annual food  
21 sales of at least \$25,000, and is engaged in food processing but  
22 does not process potentially hazardous food, the reinspection fee  
23 is \$125.



1           4. For a retail food establishment that has annual food  
2 sales of less than \$25,000 and is engaged in food processing, the  
3 reinspection fee is \$60.

4           5. For a retail food establishment that is not engaged in  
5 food processing, the reinspection fee is \$60

6           **SECTION 8.** ATCP 80.04(1)(b)(intro.), 1. and 2. are amended  
7 to read:

8           ATCP 80.04(1)(b)(intro.) License fee amounts. An applicant  
9 for a dairy plant license shall pay a basic license fee of ~~\$80~~ 100  
10 plus a supplementary license fee as follows:

11           1. For a grade A processing plant, a supplementary license  
12 fee of ~~\$650~~ 1000 if the plant received more than 2,000,000 pounds  
13 of milk from milk producers, or a supplementary license fee of  
14 \$500 if the plant received 2,000,000 pounds or less of milk from  
15 producers.

16           2. For a grade B processing plant that manufactured or  
17 processed more than 1,000,000 but not more than 10,000,000 pounds  
18 of dairy products or more than 200,000 gallons of frozen dairy  
19 products, a supplementary license fee of ~~\$270~~ 350.

20           **SECTION 9.** ATCP 80.04(1)(b)3. is renumbered ATCP  
21 80.04(1)(b)4 and amended to read:

22           ATCP 80.04(1)(b)4. For a grade A receiving station, a  
23 supplementary license fee of ~~\$250~~ 300.

1 SECTION 10. ATCP 80.04(1)(b)3. is created to read:

2 ATCP 80.04(1)(b)3. For a grade B processing plant that  
3 manufactured or processed more than 10,000,000 pounds of dairy  
4 products, a supplementary license fee of \$850.

5 SECTION 11. ATCP 80.04(2)(b)1. and (3)(b)(intro.), 1. and 2.  
6 are amended to read:

7 ATCP 80.04(2)(b)1. For each 100 pounds of grade A milk  
8 received from milk producers, ~~0.4~~ 0.6 cent.

9 (3)(b)(intro.) Fee amounts. The reinspection fee required  
10 under par. (a) includes, for each reinspection, a basic  
11 reinspection fee of ~~\$40~~ 50 plus a supplementary reinspection fee  
12 as follows:

13 1. For a grade A processing plant, a supplementary  
14 reinspection fee of ~~\$160~~ 250 if the plant received more than  
15 2,000,000 pounds of milk from milk producers during the previous  
16 calendar year, or a supplementary reinspection fee of \$125 if the  
17 plant received not more than 2,000,000 pounds ~~or less~~ of milk from  
18 milk producers during the previous calendar year.

19 2. For a grade B processing plant that manufactured more  
20 than 1,000,000 but not more than 10,000,000 pounds of dairy  
21 products, a supplementary reinspection fee of ~~\$140~~ 175.

22 SECTION 12. ATCP 80.04(3)(b)3. is renumbered ATCP  
23 80.04(3)(b)4. and amended to read:

1           ATCP 80.04(3)(b)4. For a grade A receiving station, a  
2 supplementary reinspection fee of ~~\$60~~ 75.

3           **SECTION 13.** ATCP 80.04(3)(b)3. is created to read:

4           ATCP 80.04(3)(b)3. For a grade B processing plant that  
5 manufactured more than 10,000,000 pounds of dairy products, a  
6 supplementary reinspection fee of \$425.

7           **SECTION 14. EFFECTIVE DATE.** (1) Except as provided under  
8 sub. (2), the rules contained in this order shall take effect on  
9 the first day of the month following publication in the Wisconsin  
10 administrative register, as provided under s. 227.22(2)(intro.),  
11 Stats.

12           (2) Sections 1 and 2 of this order take effect on July 1,  
13 1999.

14           **SECTION 15. INITIAL APPLICABILITY.** (1) The treatment of  
15 section ATCP 70.03(2m) and (2n) first applies to applications for  
16 new licenses that are filed on or after the effective date of this  
17 section and to renewals of food processing plant licenses which  
18 expire on March 31, 1998.

19           (2) The treatment of sections ATCP 71.02(3) and 75.015(2m)  
20 first applies to applications for new licenses that are filed on  
21 or after the effective date of these subsections, and on a  
22 prorated basis to food warehouse and retail food establishment  
23 licenses which expire on June 30, 1998.

1           (3) The treatment of section ATCP 80.04(1)(b)1. to 4. first  
2 applies to applications for new licenses that are filed on or  
3 after the effective date of this section and to renewals of dairy  
4 plant licenses which expire on April 30, 1998.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1997

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By \_\_\_\_\_  
Alan T. Tracy, Secretary

**FISCAL ESTIMATE**

DOA-2048 (R 10/94)

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB or Bill No. / Adm. Rule No. ATCP 60,70,71,75 & 80
Amendment No. (If Applicable)

**Subject**  
Food and Dairy License Fees

<p><b>Fiscal Effect</b></p> <p>State: <input type="checkbox"/> No State Fiscal Effect</p> <p>Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation</p> <p> <input type="checkbox"/> Increase Existing Appropriation      <input checked="" type="checkbox"/> Increase Existing Revenues  <input type="checkbox"/> Decrease Existing Appropriation      <input type="checkbox"/> Decrease Existing Revenues  <input type="checkbox"/> Create New Appropriation                 </p>	<p> <input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget      <input type="checkbox"/> Yes      <input type="checkbox"/> No   <input type="checkbox"/> Decrease Costs                 </p>
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<p><b>Local :</b> <input type="checkbox"/> No local government costs</p> <p>1. <input checked="" type="checkbox"/> Increase Costs  <input type="checkbox"/> Permissive      <input checked="" type="checkbox"/> Mandatory</p> <p>2. <input type="checkbox"/> Decrease Costs  <input type="checkbox"/> Permissive      <input type="checkbox"/> Mandatory</p>	<p>3. <input checked="" type="checkbox"/> Increase Revenues  <input checked="" type="checkbox"/> Permissive      <input type="checkbox"/> Mandatory</p> <p>4. <input type="checkbox"/> Decrease Revenues  <input type="checkbox"/> Permissive      <input type="checkbox"/> Mandatory</p>	<p><b>5. Types of Local Governmental Unit Affected:</b></p> <p> <input type="checkbox"/> Towns      <input type="checkbox"/> Villages      <input checked="" type="checkbox"/> Cities  <input checked="" type="checkbox"/> Counties      <input type="checkbox"/> Others _____  <input type="checkbox"/> School Districts      <input type="checkbox"/> WTCS Districts                 </p>
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<p><b>Fund Source Affected</b></p> <p> <input type="checkbox"/> GPR      <input type="checkbox"/> FED      <input checked="" type="checkbox"/> PRO      <input type="checkbox"/> PRS      <input type="checkbox"/> SEG      <input type="checkbox"/> SEG-S                 </p>	<p><b>Affected Ch. 20 Appropriations</b> 20.115(1)(gb)</p>
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**Assumptions Used in Arriving at Fiscal Estimate**

This rule will increase program revenues for the department's food safety programs by \$.9M. The increase in revenues is needed to pay for cost increases since 1991 and increases which are anticipated during the next four fiscal years (FY 98-01). The department has not raised fees since 1991.

The department proposes to increase license and reinspection fees for the following categories of food and dairy businesses: dairy farms, dairy plants, food processing plants, retail food establishments, and food warehouses.

The 1991-93 biennial budget act created the current structure for food and dairy license fees and set the fees at the current level. The 1991 budget legislation also authorized the department to adjust license fees via the rulemaking process.

Wisconsin's food safety programs are funded by general tax dollars (general purpose revenue (GPR)) and industry license fees (PR). In 1991, license fees funded about 40% of program costs. Program costs have increased since 1991 and will continue to do so during the next four years. The 1995-97 biennial budget act reduced GPR funding, and required a higher percentage (50%) of license fee funding. No staff positions have been added since 1991. Cost increases are due to external factors, such as inflation and statewide employee pay and benefit increases. As a result, the department projects a deficit in its food safety budget in FY 1997-98 and subsequent years.

**Local Government Impact**

The cost to local governments will increase by \$16,191.

As a result of these fee increases, local governments that license and inspect retail food establishments as agents of the department will be required to increase their reimbursement to the department for administrative services. Local governments can and do pass this increase on to retail food businesses. Local governments can set license fees to recover up to 100% of their reasonable operating costs. Currently, agents must reimburse the department for 20% of the license fee the department would charge if the department was delivering inspection-related services. For FY 95-96, agent reimbursement to the department equaled \$37,656. If the proposed fee increases are implemented, the rate of reimbursement will remain at 20%, but the total agent reimbursement to the department will increase to \$53,847.

**Long - Range Fiscal Implications**

<p><b>Agency/prepared by: (Name &amp; Phone No.)</b></p> <p>DATCP Peter Pawlsch 224-4702</p>	<p><b>Authorized Signature/Telephone No.</b></p> <p><i>Barbara Knapp</i> Barbara Knapp 224-4746</p>	<p><b>Date</b></p> <p>2/26/97</p>
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**FISCAL ESTIMATE WORKSHEET**

**1997 SESSION**

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)

ORIGINAL  UPDATED  
 CORRECTED  SUPPLEMENTAL

LRB or Bill No./Adm.Rule No.  
ATCP 60,70,71,75 &  
80

Amendment No.

Subject Food and Dairy License Fees		
I. One-time Cost or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):		
II. Annualized Cost:		Annualized Fiscal Impact on State funds from:
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	( FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues -	Increased Costs	Decreased Costs
<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>		
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS	899,901	-
SEG/SEG-S		-
TOTAL State Revenues	\$ 899,901	\$ -

**NET ANNUALIZED FISCAL IMPACT**

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ <u>0</u>	\$ <u>16,191</u>
NET CHANGE IN REVENUES	\$ <u>899,901</u>	\$ <u>16,191</u>

Agency Prepared by: (Name & Phone No.) DATCP Peter Pawlisch 224-4702	Authorized Signature/Telephone No. <i>Barbara Knapp</i> Barbara Knapp (608) 224-4746	Date 2/26/97
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**Initial Regulatory Flexibility Analysis**

Proposed chs. ATCP 60, 70, 71, 75, 80, Wis. Adm. Code

**FOOD AND DAIRY LICENSE FEES**

This rule increases existing license fees for milk producers, dairy plants, food processing plants, food warehouses and retail food establishments. The department has not increased license fees since 1991.

Wisconsin's food safety programs are funded by general tax dollars (GPR) and industry license fees (PR). In 1991, license fees funded about 40% of the food safety program costs. Program costs have increased due to external factors, such as inflation and statewide pay increases, over which the department has no control. In addition, the 1995-97 biennial budget reduced GPR funding, and required a higher percentage (50%) of license fee funding. As a result, the department projects a deficit in its food safety budget in FY 1997-98.

Increasing license fees as proposed in this rule will affect small businesses. License fees for all categories of dairy farms, dairy plants, food processing plants, food warehouses and retail food establishments will increase. Small businesses exist in each category of food and dairy establishment.

The department has attempted to accomodate small businesses and provide a reasonably fair and equitable license fee schedule. This is done by basing fees on the actual costs associated with each category of licensed establishment and then determining further subcategories of establishments based on the size or volume of each establishment and the food products processed or handled by the establishment. Smaller establishments processing and handling food with less potential food safety risks pay lower license fees than large establishments handling foods with higher food safety risks.

This rule requires no additional recordkeeping or other procedures for small businesses. Small businesses will need no additional professional skills or assistance in order to comply with this rule.

Dated this 26<sup>th</sup> day of February, 1996

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

by: Steven B. Steinhoff  
Steven B. Steinhoff, Administrator  
Division of Food Safety

**Summary of Current Fee Proposal**

The final draft rule revises current license fees for dairy plants, food processing plants, food warehouses and retail food establishments. This includes changes in "reinspection fees" charged when a rule violation makes it necessary for the department to reinspect a licensed facility. The fee changes are summarized in the following tables:

Milk Procurement Fee. The increased fee, which is paid monthly, takes effect on the effective date of the rule.

Category	Current Procurement Fee	Proposed Procurement Fee
Grade A	0.4 Cents per Hundredweight	0.6 Cents per hundredweight
Grade B	0.2 Cents per Hundredweight	NO CHANGE; remains at 0.2 Cents per hundredweight.

\*\*\*\*\*

Food Processing Plant License Fees. The increased license fees will apply to licenses issued or renewed on or after the effective date of the rule.

Category	Current License Fee	Proposed License Fee
Annual production of \$25,000 or more but less than \$250,000 and is engaged in processing potentially hazardous food	\$120	\$250
Annual production of \$250,000 or more and is engaged in processing potentially hazardous food	\$270	\$525
Annual production of \$25,000 or more but less than \$250,000 and is not engaged in processing potentially hazardous food or in canning	\$50	\$100
Annual production of \$250,000 or more and is not engaged in processing potentially hazardous food or in canning	\$110	\$325
Annual production of less than \$25,000	\$40	\$60

\*\*\*\*\*



Food Processing Plant Reinspection Fees. The increased fees will apply to reinspections made on or after the effective date of the rule.

Category	Current Reinspection Fee	Proposed Reinspection Fee
Annual production of \$25,000 or more but less than \$250,000 and is engaged in processing potentially hazardous food	\$80	\$170
Annual production of \$250,000 or more and is engaged in processing potentially hazardous food	\$180	\$350
Annual production of \$25,000 or more but less than \$250,000 and is not engaged in processing potentially hazardous food or in canning	\$50	\$100
Annual production of \$250,000 or more and is not engaged in processing potentially hazardous food or in canning	\$110	\$325

\*\*\*\*\*

Retail Food Establishment License Fees. The increased license fees will apply to licenses issued or renewed on or after the effective date of the rule.

Category	Current License Fee	Proposed License Fee
Annual food sales of \$25,000 or more but less than \$1,000,000 and that processes potentially hazardous food	\$90	\$175
Annual food sales of \$1,000,000 or more and that processes potentially hazardous food	\$210	\$450
Annual food sales of \$25,000 or more an that is engaged in food processing but does not process potentially hazardous food	\$80	\$125
Annual food sales of less than \$25,000 and that is engaged in food processing	\$40	\$60
Not engaged in food processing	\$20	\$30

\*\*\*\*\*

Retail Food Establishment Reinspection Fees. The reinspection fee increases will apply to reinspections made on or after the effective date of the rule.

Category	Current Reinspection Fee	Proposed Reinspection Fee
Annual food sales of \$25,000 or more but less than \$1,000,000 and that processes potentially hazardous food	\$60	\$125
Annual food sales of \$1,000,000 or more and that processes potentially hazardous food	\$140	\$300
Annual food sales of \$25,000 or more an that is engaged in food processing but does not process potentially hazardous food	\$80	\$125
Annual food sales of less than \$25,000 and that is engaged in food processing	\$40	\$60
Not engaged in food processing	\$50	\$60

\*\*\*\*\*

Food Warehouse License Fees. The license fee increases will apply to licenses issued or renewed on or after the effective date of the rule.

Category	Current License Fee	Proposed License Fee
Stores potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$75
Stores potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200
Does not store potentially hazardous food and has fewer than 50,000 square feet of storage area	\$25	\$50
Does not store potentially hazardous food and has 50,000 square feet or more of storage area	\$50	\$100

\*\*\*\*\*

Food Warehouse Reinspection Fees. The reinspection fee increases will apply to reinspections made on or after the effective date of the rule.

Category	Current Reinspection Fee	Proposed Reinspection Fee
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Does not store potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$100
Does not store potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200

### **Fiscal Estimate**

This rule will increase local government costs for 15 agent cities and counties. The combined cost increase for all 15 agent cities and counties will be about \$16,000 per year. City and county health departments that license and inspect retail food establishments on behalf of the department may set their own license fees. However, they must reimburse the department, for support services, an amount equal to 20% of the department's statewide license fee. This rule will increase local reimbursement payments beginning with licenses issued for fiscal year 2000. A copy of the fiscal estimate is attached.

### **Small Business Impact**

License fee increases will affect small businesses. The department has attempted to accommodate small businesses and provide a reasonably fair and equitable license fee schedule. In general, smaller establishments processing and handling food with less potential food safety risks pay lower license fees than large establishments handling foods with higher food safety risks. A small business analysis (final regulatory flexibility analysis) is attached.

### **Next Steps**

If the Board approves this final draft rule, the department will transmit the final draft to the Legislature for review by appropriate legislative committees. If the Legislature takes no action to stop the rule, the Secretary will sign the final rulemaking order and transmit it for publication. The rule will take effect upon publication in the Wisconsin Administrative Register unless the final draft rule specifies a later effective date.

The department projects an effective date of March 1, 1998. Agent cities and counties will not be required to reimburse the department based on the department's new retail food establishment license fees until fiscal year 2001.

**Summary of Current Fee Proposal**

The final draft rule revises current license fees for dairy plants, food processing plants, food warehouses and retail food establishments. This includes changes in "reinspection fees" charged when a rule violation makes it necessary for the department to reinspect a licensed facility. The fee changes are summarized in the following tables:

Milk Procurement Fee. The increased fee, which is paid monthly, takes effect on the effective date of the rule.

Category	Current Procurement Fee	Proposed Procurement Fee
Grade A	0.4 Cents per Hundredweight	0.6 Cents per hundredweight
Grade B	0.2 Cents per Hundredweight	NO CHANGE; remains at 0.2 Cents per hundredweight.

\*\*\*\*\*

Food Processing Plant License Fees. The increased license fees will apply to licenses issued or renewed on or after the effective date of the rule.

Category	Current License Fee	Proposed License Fee
Annual production of \$25,000 or more but less than \$250,000 and is engaged in processing potentially hazardous food	\$120	\$250
Annual production of \$250,000 or more and is engaged in processing potentially hazardous food	\$270	\$525
Annual production of \$25,000 or more but less than \$250,000 and is not engaged in processing potentially hazardous food or in canning	\$50	\$100
Annual production of \$250,000 or more and is not engaged in processing potentially hazardous food or in canning	\$110	\$325
Annual production of less than \$25,000	\$40	\$60

\*\*\*\*\*

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\*\*\*\*\*

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Category	Current License Fee	Proposed License Fee
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Annual food sales of \$25,000 or more but less than \$1,000,000 and that processes potentially hazardous food	\$60	\$125
Annual food sales of \$1,000,000 or more and that processes potentially hazardous food	\$140	\$300
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Not engaged in food processing	\$50	\$60

\*\*\*\*\*

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Category	Current License Fee	Proposed License Fee
Stores potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$75
Stores potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200
Does not store potentially hazardous food and has fewer than 50,000 square feet of storage area	\$25	\$50
Does not store potentially hazardous food and has 50,000 square feet or more of storage area	\$50	\$100

\*\*\*\*\*

Food Warehouse Reinspection Fees. The reinspection fee increases will apply to reinspections made on or after the effective date of the rule.

Category	Current Reinspection Fee	Proposed Reinspection Fee
Stores potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$75
Stores potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200
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### **Fiscal Estimate**

This rule will increase local government costs for 15 agent cities and counties. The combined cost increase for all 15 agent cities and counties will be about \$16,000 per year. City and county health departments that license and inspect retail food establishments on behalf of the department may set their own license fees. However, they must reimburse the department, for support services, an amount equal to 20% of the department's statewide license fee. This rule will increase local reimbursement payments beginning with licenses issued for fiscal year 2000. A copy of the fiscal estimate is attached.

### **Small Business Impact**

License fee increases will affect small businesses. The department has attempted to accommodate small businesses and provide a reasonably fair and equitable license fee schedule. In general, smaller establishments processing and handling food with less potential food safety risks pay lower license fees than large establishments handling foods with higher food safety risks. A small business analysis (final regulatory flexibility analysis) is attached.

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The department projects an effective date of March 1, 1998. Agent cities and counties will not be required to reimburse the department based on the department's new retail food establishment license fees until fiscal year 2001.

**Summary of Current Fee Proposal**

The final draft rule revises current license fees for dairy plants, food processing plants, food warehouses and retail food establishments. This includes changes in "reinspection fees" charged when a rule violation makes it necessary for the department to reinspect a licensed facility. The fee changes are summarized in the following tables:

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Grade B	0.2 Cents per Hundredweight	NO CHANGE; remains at 0.2 Cents per hundredweight.

\*\*\*\*\*

Food Processing Plant License Fees. The increased license fees will apply to licenses issued or renewed on or after the effective date of the rule.

Category	Current License Fee	Proposed License Fee
Annual production of \$25,000 or more but less than \$250,000 and is engaged in processing potentially hazardous food	\$120	\$250
Annual production of \$250,000 or more and is engaged in processing potentially hazardous food	\$270	\$525
Annual production of \$25,000 or more but less than \$250,000 and is not engaged in processing potentially hazardous food or in canning	\$50	\$100
Annual production of \$250,000 or more and is not engaged in processing potentially hazardous food or in canning	\$110	\$325
Annual production of less than \$25,000	\$40	\$60

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Food Processing Plant Reinspection Fees. The increased fees will apply to reinspections made on or after the effective date of the rule.

Category	Current Reinspection Fee	Proposed Reinspection Fee
Annual production of \$25,000 or more but less than \$250,000 and is engaged in processing potentially hazardous food	\$80	\$170
Annual production of \$250,000 or more and is engaged in processing potentially hazardous food	\$180	\$350
Annual production of \$25,000 or more but less than \$250,000 and is not engaged in processing potentially hazardous food or in canning	\$50	\$100
Annual production of \$250,000 or more and is not engaged in processing potentially hazardous food or in canning	\$110	\$325

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Retail Food Establishment License Fees. The increased license fees will apply to licenses issued or renewed on or after the effective date of the rule.

Category	Current License Fee	Proposed License Fee
Annual food sales of \$25,000 or more but less than \$1,000,000 and that processes potentially hazardous food	\$90	\$175
Annual food sales of \$1,000,000 or more and that processes potentially hazardous food	\$210	\$450
Annual food sales of \$25,000 or more an that is engaged in food processing but does not process potentially hazardous food	\$80	\$125
Annual food sales of less than \$25,000 and that is engaged in food processing	\$40	\$60
Not engaged in food processing	\$20	\$30

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Retail Food Establishment Reinspection Fees. The reinspection fee increases will apply to reinspections made on or after the effective date of the rule.

Category	Current Reinspection Fee	Proposed Reinspection Fee
Annual food sales of \$25,000 or more but less than \$1,000,000 and that processes potentially hazardous food	\$60	\$125
Annual food sales of \$1,000,000 or more and that processes potentially hazardous food	\$140	\$300
Annual food sales of \$25,000 or more an that is engaged in food processing but does not process potentially hazardous food	\$80	\$125
Annual food sales of less than \$25,000 and that is engaged in food processing	\$40	\$60
Not engaged in food processing	\$50	\$60

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Food Warehouse License Fees. The license fee increases will apply to licenses issued or renewed on or after the effective date of the rule.

Category	Current License Fee	Proposed License Fee
Stores potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$75
Stores potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200
Does not store potentially hazardous food and has fewer than 50,000 square feet of storage area	\$25	\$50
Does not store potentially hazardous food and has 50,000 square feet or more of storage area	\$50	\$100

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Food Warehouse Reinspection Fees. The reinspection fee increases will apply to reinspections made on or after the effective date of the rule.

Category	Current Reinspection Fee	Proposed Reinspection Fee
Stores potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$75
Stores potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200
Does not store potentially hazardous food and has fewer than 50,000 square feet of storage area	\$50	\$100
Does not store potentially hazardous food and has 50,000 square feet or more of storage area	\$100	\$200

### **Fiscal Estimate**

This rule will increase local government costs for 15 agent cities and counties. The combined cost increase for all 15 agent cities and counties will be about \$16,000 per year. City and county health departments that license and inspect retail food establishments on behalf of the department may set their own license fees. However, they must reimburse the department, for support services, an amount equal to 20% of the department's statewide license fee. This rule will increase local reimbursement payments beginning with licenses issued for fiscal year 2000. A copy of the fiscal estimate is attached.

### **Small Business Impact**

License fee increases will affect small businesses. The department has attempted to accommodate small businesses and provide a reasonably fair and equitable license fee schedule. In general, smaller establishments processing and handling food with less potential food safety risks pay lower license fees than large establishments handling foods with higher food safety risks. A small business analysis (final regulatory flexibility analysis) is attached.

### **Next Steps**

If the Board approves this final draft rule, the department will transmit the final draft to the Legislature for review by appropriate legislative committees. If the Legislature takes no action to stop the rule, the Secretary will sign the final rulemaking order and transmit it for publication. The rule will take effect upon publication in the Wisconsin Administrative Register unless the final draft rule specifies a later effective date.

The department projects an effective date of March 1, 1998. Agent cities and counties will not be required to reimburse the department based on the department's new retail food establishment license fees until fiscal year 2001.

Chairman:  
Agriculture Committee



Member:  
Environment & Utilities  
Government Operations  
Natural Resources  
Rural Affairs

**Al Ott**

State Representative • 3rd Assembly District

## **Assembly Agriculture Committee**

### **MEMO**

**To: Members of the Assembly Agriculture Committee**

**From: Representative Al Ott, Chair**

**Date: September 24, 1997**

**The following clearinghouse rule has been referred to the Assembly Agriculture Committee:**

**Clearinghouse Rule 97-038  
Relating to food and dairy license fees.**

**The deadline for action on this rule is October 23, 1997. If you would like a copy of the rule, please contact my office at 266-5831.**